

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:)
Ricky Lynn Taliaferro and) Case No. 18-11230 JDL
Sara Beth Brown-Taliaferro,) Chapter 13
Debtors.)

MOTION FOR RELIEF FROM AUTOMATIC STAY UNDER 11 U.S.C. § 362,
FOR WAIVER OF 14 DAY STAY UNDER FED. R. BANKR. P. 4001(A)(3),
AND REQUEST TO ABANDON PROPERTY FROM THE BANKRUPTCY ESTATE,
AND NOTICE OF MOTION AND OPPORTUNITY FOR HEARING,
COMBINED WITH BRIEF IN SUPPORT

COMES NOW, City National Bank (herein after referred to as BANK) and hereby asks this court to grant it relief from the automatic stay and abandonment of certain bankruptcy estate property, and waive the fourteen (14) day period-all pursuant to 11 U.S.C. §362(d) and §554(b), and Fed. R. Bankr. P. 4001(a)(3). In support thereof BANK respectfully represents and shows to the Court as follows:

1. That BANK is the holder of a duly perfected security interest in the following described real property as shown by copy of the Note and the recorded Mortgage which has been recorded with the Comanche County Clerk on February 4, 2011, and recorded in Book 006355, Pages 152-166, and the Modification of Mortgage that was recorded on July 19, 2011, and recorded in Book 006465, on pages 180-182. All of which are attached hereto covering the following described real estate and collateral:

Beginning 991.4 feet West of the Southeast corner of the Southeast Quarter (SE/4) of Section Four (4), Township One (1) North, Range Eleven (11) West, I.M., Comanche County, Oklahoma, according to the U.S. Government Survey thereof; thence North 393.6 feet; thence East 221.4 feet; thence South 393.6 feet; thence West 221.2 feet, to the point of beginning.

FURTHER, That BANK is the holder of a duly perfected security interest in the following described vehicles and machinery as shown by copies of the UCC1 form that has been filed with the appropriate state agencies and attached hereto:

all equipment, inventory and accounts, including but not limited to the following: 16' Easley Stock Trailer, 16' Flatbed Utility Trailer, 14' Job Trailer w/Diesel Welder and hand tools, 12' Lawn Mower Trailer with Ramp, 1 ea. Registered Breeding stock Mare, 1 ea. Kids gentle Shetland Pony, 1969 Howard Council Saddle, Hustler Super Z with Honda Motor 60" cut, and Saddles and Tack.

2. As to the real property the BANK is owed the sum of One Hundred Forty-Eight Thousand Four Hundred Thirty Dollars and seventy cents (\$148,430.70), plus interest at 12.00 percent per annum, until paid in full. FURTHER the BANK is owed the equipment, inventory and accounts and the collateral the sum of Thirty-Nine Thousand Five Hundred Fifty-Seven Dollars and sixty-four cents (\$39,557.64) and at this time are in arrears in the sum of Four Thousand Fifty Dollars (\$4,050.00). That the Debtors are in default by reason of failure of said Debtors to pay the said monthly installments due upon said collateral and as such BANK would request the automatic stay be lifted so that it could obtain possession of its collateral and foreclose its security interest. For the foregoing reason, there is sufficient cause to modify the automatic stay under 11 U.S.C. §362(d)(1).

3. BANK would state that since the Debtors have failed to make their payments on all of the collateral it would be appropriate for the Court to enter an Order Lifting the Automatic Stay provided by 11 U.S.C., Section 362(d) and further that the property be abandoned pursuant to 11 U.S.C., Section 554.

4. Although no formal appraisal of said collateral have been made, the Petitioner alleges that there is no equity in said collateral for the estate of the Debtors, and that the outstanding balance due upon said collateral is in excess of the value of said collateral. Furthermore, that said collateral is a burdensome asset of the estate and should be abandoned.

5. Under Fed. R. Bankr. P. 4001(a)(3), an order granting stay relief on this Motion would be stayed "until the expiration of 14 days after the entry of the order, unless the court orders otherwise." Good cause exists to "order otherwise" as the collateral has been surrendered to this creditor and this creditor needs to be able to dispose of its collateral as it is continuing to depreciate without compensation to BANK. **Petitioner is asking the Court to waive the statutory period pursuant to FRBP 4001(a)(3).**

6. Petitioner further alleges that said collateral above mentioned is currently not being used or will not be needed for the purpose of carrying on the business of the Debtor or to effectuate a Plan which may be purposed in this proceeding.

7. That BANK has been stayed from enforcing its rights under said security agreement since the filing of this case on March 29, 2018. That said collateral is continuing to depreciate without compensation to BANK and by reason thereof, BANK is entitled to adequate protection which can only be provided by an Order Lifting the Automatic Stay imposed upon BANK and thereby permitting it to obtain possession of its collateral for the purpose of foreclosure of its security interests.

NOTICE OF OPPORTUNITY FOR HEARING

8. Your rights may be affected. You should read this document and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102, no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or response or objection to the undersigned movant/movant's attorney and the Chapter 7 Trustee [and any others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. The 14 day period includes the three (3) days allowed for mailing provided for in Fed. R. Bankr. P. 9006(f).

WHEREFORE, Petitioner, BANK prays the Court enter an Order lifting the Automatic Stay imposed by the filing of this proceeding to permit Petitioner to take possession of said collateral and foreclose its security interest therein as provided by law, and that BANK may have such other and further relief to which it may be entitled, and such order being made immediately effective pursuant to Fed. R. Bankr. P. 4001(a)(3).

s/Hyman Z. Copeland
Hyman Z. Copeland, OBA #1902
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Attorney for City National Bank

CERTIFICATE OF SERVICE

I, Roger D. Everett certify that on the 1st day of August, 2019, a true and correct copy of the above and foregoing Motion was electronically filed with the Bankruptcy Court of the Western District of Oklahoma and as such the Bankruptcy Court Clerk caused the same to be electronically sent to all parties requesting notice via the CM/ECF electronic noticing system including but not limited to the following parties:

John C. Cramer on behalf of Debtor Ricky Lynn Taliaferro
clf@cramer.cc

John C. Cramer on behalf of Joint Debtor Sara Beth Brown-Taliaferro
clf@cramer.cc

John T. Hardeman
13trustee@chp13okc.com, trustee@chp13okc.com

U.S. Trustee
Ustpregion20.oc.ecf@usdoj.gov

and via the U.S. Postal Service, postage prepaid, to all parties listed below and on the attached matrix (less those parties receiving notice through the Court's CM/ECF noticing system):

Ricky Lynn Taliaferro
2502 SE Bishop Road
Lawton, OK 73501

Sara Beth Brown-Taliaferro
2502 SE Bishop Road
Lawton, OK 73501

s/Hyman Z. Copeland
HYMAN Z. COPELAND